

Remarks:

Reconsideration of the application is requested.

Claims 2-9, 16-20, and 22-25 remain in the application.

Claims 2, 7-9, 16, 19-20, and 22-25 have been amended. A marked-up version of the claims is attached hereto on separate pages.

In the third paragraph on page 2 of the above-identified Office action, the Examiner stated that the proposed drawing correction and/or the proposed substitute sheets of drawings, filed on September 10, 2002 would be acceptable upon deletion of the extraneous written matter in Fig. 1. Fig. 1 has been amended so as to remove the extraneous written matter.

In the last paragraph on page 2 of Office action, claims 2-9, 16-20, and 22-25 have been rejected as being indefinite under 35 U.S.C. § 112.

More specifically, the Examiner has stated that it should be noted that there is no support in the disclosure for the prongs to have more than two legs. The Examiner stated that the language of "at least two" legs implies more than two legs. In order to facilitate prosecution of the application

the claims have been amended and now read "two legs".

Therefore, the rejection has been overcome.

In the second paragraph on page 3 of Office action, claims 2-9, 16-20, and 22-25 have been rejected as being indefinite under 35 U.S.C. § 112.

More specifically the Examiner stated that with respect to claims 22-24, it is unclear how the prongs are pivotable about the respective base wire when they are fixedly connected thereto at the intersection of the legs. The Examiner further states that any "pivoting" is done with the base wire and not relative to the base wire. The claims have been amended so as to facilitate prosecution of the application and now the prongs are pivotable "about a longitudinal axis of said base wire". Therefore, the rejection has been overcome.

The Examiner also stated that claims 22-24 are further indefinite due to the "vicinity" recitation. The Examiner stated that in particular, "vicinity" is such a broad and relative term that it fails to preclude connection anywhere along the prong since any point of the prong would be "in the vicinity" of the intersection. The claims have been amended so as to facilitate prosecution of the application, and now read "in the vicinity of said intersection, and distal from said free end". Therefore, the rejection has been overcome.

The Examiner further stated that with respect to claim 25, the claim appears to be misdescriptive and/or inaccurate because it is not seen how either leg could be considered "parallel" to the rack base. The Examiner stated that reference should be with respect to the plane of the base. It is respectfully noted that the Examiner is in error. Claim 22 claims "a plurality of base wires forming a dish rack base". Since the base wires form a base it is inherent that the leg is parallel to the plane of the base. Therefore the claim has not been amended to overcome the rejection.

The Examiner stated that claims 7, 8, and 20 improperly seek to remove limitations previously set forth. The Examiner stated that specifically, claim 22 requires that each prong have at least two legs. The Examiner stated that thus it is improper to now state that only every other prong or staggered prongs have at least two legs. The claims have been amended so as to facilitate prosecution of the application. The claims now include "further prongs" and "prongs", which are alternating disposed on the base wire. Support for this change can be found on page 10, lines 1-6 of the specification. Therefore, the rejection has been overcome.

The Examiner stated that claim 20 depends from a cancelled claim. In order to facilitate prosecution of the application

claim 20 has been amended, and now depends from claim 24.

Therefore, the rejection has been overcome.

The Examiner also stated that claim 19 now lacks antecedent basis for "said angled end", lines 1-2. In order to facilitate prosecution of the application claim 19 has been amended to remove "said angled end". Therefore, the rejection has been overcome.

Support for these changes may be found in Figs. 1-4 and the specification of the instant application.

It is accordingly believed that the specification and the claims meet the requirements of 35 U.S.C. § 112, first and second paragraphs. Should the Examiner find any further objectionable items, counsel would appreciate a telephone call during which the matter may be resolved. The above-noted changes to the claims are provided solely for cosmetic or clarificatory reasons. The changes are not provided for overcoming the prior art nor for any reason related to the statutory requirements for a patent.

In the second paragraph on page 4 of the Office action, claims 2-9, 16-20, and 22-25 have been rejected as being fully anticipated by Remmler (U.S. Patent No. 5,649,630) under 35 U.S.C. § 102.

The rejection has been noted and the claims have been amended in an effort to even more clearly define the invention of the instant application. The claims are patentable for the reasons set forth below. Support for the changes is found Figs. 1-4 and the specification of the instant application.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful.

Claims 22, 23, and 24 call for, inter alia:

"a plurality of prongs each having two legs with two free ends and an intersection connecting said legs to one another, each of said prongs being connected to a respective one of said base wires in a vicinity of said intersection, and distal from said free ends".

The Remmler reference discloses dish racks (20 and 22) with a removable dish holder (40). The pins (52) have a plurality of upwardly extending portions (62) with a free end, and outwardly extending portions (60) with free ends and a base wire (50). The free ends of the outwardly extending portions (60) are connected to the base wire (50).

The reference does not show a plurality of prongs each having two legs with two free ends and an intersection connecting said legs to one another, each of said prongs being connected to a respective one of the base wires in a vicinity of the intersection, and distal from the free ends, as recited in claims 22, 23, and 24 of the instant application. The Remmler reference discloses that free ends of the outwardly extending portions (60) are connected to the base wire (50). This is contrary to the invention of the instant application, in which the prongs are connected to the base wires in a vicinity of the intersection, and distal from said free ends.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 22, 23, or 24. Claims 22, 23, and 24 are, therefore, believed to be patentable over the art and since all of the dependent claims are ultimately dependent on claims 22, 23, or 24 they are believed to be patentable as well.


In view of the foregoing, reconsideration and allowance of claims 2-9, 16-20, and 22-25 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel respectfully requests a telephone

call so that, if possible, patentable language can be worked out.

Please charge any other fees which might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner & Greenberg P.A., No. 12-1099.

Respectfully submitted,



For Applicant(s)

Alfred K. Dassler
P- 52,794

AKD:cgm

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Lerner and Greenberg, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480
Tel: (954) 925-1100
Fax: (954) 925-1101

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Marked-up version of the claims:

Claim 2 (thrice-amended). The dish rack according to claim [21] 22, wherein at least some of said legs are pivotable into a horizontal position, a vertical position, and oblique positions different from said horizontal position and said vertical position.

Claim 7 (twice-amended). The dish rack according to claim [21] 22, further comprising: [wherein only staggered ones of said prongs have at least two of said legs forming a stop for retaining hollow dishes]

further prongs having one leg;

said further prongs and said prongs being alternating disposed on said base wire; and

said two legs of said prongs forming a stop for retaining hollow dishes.

Claim 8 (twice-amended). The dish rack according to claim [21] 25, further comprising: [wherein every second prong of said prongs has at least two of said legs forming a stop for retaining hollow dishes]

further prongs having one leg;

said further prongs and said prongs being alternating disposed
on said base wire; and

said two legs of said prongs forming a stop for retaining
hollow dishes.

Claim 9 (twice-amended). The dish rack according to claim
[21] 22, wherein said prongs having at least two legs are L-
shaped.

Claim 16 (amended). The dish rack according to claim [23] 24,
wherein said prongs having at least two legs are L-shaped.

Claim 19 (amended). The dish rack according to claim 17,
wherein [said angled end] at least one of said legs forms a
stop for retaining hollow dishes in at least one of said
horizontal position and said oblique positions.

Claim 20 (amended). The dish rack according to claim [15] 24,
further comprising: [wherein only staggered ones of said
prongs has an angled end].

further prongs having one leg;

said further prongs and said prongs being alternating disposed on said base wire; and

said two legs of said prongs forming a stop for retaining hollow dishes.

Claim 22 (amended). A dish rack for accommodating dishes, comprising:

a plurality of base wires forming a dish rack base; and

a plurality of prongs each having [at least] two legs with two free ends and an intersection connecting said legs to one another, each of said prongs being connected to a respective one of said base wires in a vicinity of said intersection, and distal from said free ends, and at least some of said prongs being pivotable between different pivot positions about a respective longitudinal axis of one of said base wires.

Claim 23 (amended). In a household dishwasher, a dish rack for accommodating dishes, the dish rack comprising:

a plurality of base wires forming a dish rack base; and

a plurality of prongs each having [at least] two legs with two free ends and an intersection connecting said legs to one another, each of said prongs being connected to a respective one of said base wires in a vicinity of said intersection, and distal from said free ends, and at least some of said prongs being pivotable between different pivot positions about a respective longitudinal axis of one of said base wires.

Claim 24 (amended). A dish rack for accommodating dishes, comprising:

at least one base wire and a plurality of prongs forming a retainer;

said plurality of prongs each having [at least] two legs and an intersection connecting said legs to one another, each of said prongs being connected to said base wire in a vicinity of said intersection and distal from said free ends, for securing dishware, and at least some of said prongs being pivotable between different pivot positions about a longitudinal axis of said base wire.

Claim 25 (amended). The dish rack according to claim [21] 22, wherein some of said prongs are pivotable into three functional dish rack positions, including:

a first functional dish rack position in which a first one of said legs is substantially perpendicular to said dish rack base and a second one of said legs is substantially parallel to said dish rack base;

a second functional dish rack position in which said first and second legs enclose acute angles with said dish rack base; and

a third functional dish rack position in which said first leg is substantially parallel to said dish rack base and said second leg is substantially perpendicular to said dish rack base.